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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,207	05/09/2001	Robert W. Balliett	6160-1-P59B	3853

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BAYER CORPORATION
PATENT DEPARTMENT
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PITTSBURGH, PA 15205

EXAMINER

BOS, STEVEN J

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 09/19/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/852,207

Applicant(s)
Balliett et al

Examiner
Steven Bos

Art Unit
1754



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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The use of the trademark ALAMINE has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13,26,48 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The instant specification is nonenabled to one skilled in the art as to what is meant by "di, tridecyl amine."

Claims 1-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✓ In claim 1, b, "at an pressure" is ungrammatical.

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In claim 1, h, "ammonium dimolybdate" is indefinite as to where this came from or how it could be formed since nowhere in the recited process is an ammonium compound used.

In claims 1,22,41, "suitable as a chemical grade product" is indefinite and appears to be superfluous.

In claims 2,3,5,7-11,15-21,23,24,28-31,33,36-38,40,42-46,50-54 are indefinite as there is not proper antecedent basis for each recitation of "step".

In claims 13,26,48, are indefinite as to what is meant by "di,tridecyl amine".

In claims 20,37,54, "chemical grade molybdenum oxide" is indefinite as to what the metes and bounds of this phrase are.

✓ In claims 11,24,46, "simultaneously reducing the pH level" is indefinite as to what it is simultaneous with.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10,18-21,41-45,53,54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ketcham '883.

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Ketcham teaches or at least suggests the instantly claimed process for making ammonium dimolybdate. Cementation of copper or molybdenum by adding iron is well known in the art as is recycling to optimize process production. See cols. 3-10.

The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to select the portion of the prior art's range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results, see *In re Boesch*, 205 USPQ 215.

The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a prima facie case of obviousness, *In re Malagari*, 182 USPQ 549.

Claims 22,23,33-35,37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vertes '852.

Vertes teaches or at least suggests the instantly claimed process of making ammonium dimolybdate. Recycling and copper cementation by adding iron are well known in the art. See Fig. 1 and cols. 4,5.

The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to select the portion of the prior art's range which is within

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the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results, see *In re Boesch*, 205 USPQ 215.

The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a *prima facie* case of obviousness, *In re Malagari*, 182 USPQ 549.

Claims 11-17,24-32,36,46-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

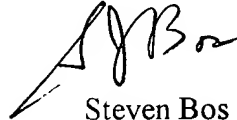
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Bos whose telephone number is (703) 308-2537. The examiner is on the increased flexitime program schedule. The FAX No. for After Final amendments is 703-872-9311; for all others it is 703-872-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'S. Bos', with a stylized flourish at the end.

Steven Bos
Primary Examiner
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